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**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:	)	3:13-bk-50301 (MKN)
	)	
RODEO CREEK GOLD, INC.,	)	Chapter 11
	)	
Debtor.	)	JOINDER OF U.S. FOREST SERVICE TO
	)	NDEP's OBJECTIONS TO PROPOSED
	)	SALE OF ASSETS (#400) and
AND RELATED PROCEEDINGS JOINTLY	)	
ADMINISTERED.	)	SUPPLEMENTAL OBJECTION AND
	)	STATEMENT OF U.S. FOREST SERVICE
	)	REGARDING MOTION TO APPROVE
	)	SALE OF ASSETS (#16)

Hearing date: May 2, 2013 - Las Vegas  
Hearing time: 1:30 pm

Comes now United State Forest Service, an agency of the United States and a component of the U.S. Department of Agriculture (hereinafter "Forest Service"), through its undersigned counsel,, and files its joinder to the Objection (#400) filed by State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection (hereinafter "NDEP") to the Debtors' proposed sale of assets.

As discussed in NDEP's Objection (#400), the terms of the proposed sale of assets include unhelpful ambiguities with respect to the obligations, including reclamation obligations and plan operation compliance obligations, being assumed by the proposed purchaser. Moreover, the terms of the proposed sale of assets lack sufficient clarity regarding the disposition of the reclamation

1 bonds currently held by Forest Service and regarding the obligation of the proposed purchaser to  
2 comply with applicable regulations governing reclamation bonding and transfer of Plan of  
3 Operations. See NDEP Objection (#400), pp. 5-7. Forest Service hereby joins in NDEP's  
4 objections.

5 Forest Service supplements its joinder to NDEP's objections and provides the following  
6 statement regarding Forest Service's expectations regarding transfer of mining Plan of Operations  
7 coincident to the sale of assets. Antler Peak Gold, Inc. currently is the authorized operator for the  
8 Esmeralda Mining and Milling Project (hereinafter "Esmeralda Project") which operates, in part,  
9 on National Forest System land. Forest Service holds cash bonds in the amount of \$388,300 for  
10 reclamation obligations at the site and the terms of the reclamation bonds are reflected in two  
11 separate Forest Service Forms 6500-7 "Reclamation Performance Bonds" executed by an  
12 authorized official of Antler Peak, Inc. The reclamation bonds required for the project under 36  
13 C.F.R., § 228.13 were last reviewed for adequacy in June 2011.

14 The federal regulations governing mining operations on Forest Service lands are found at  
15 36 CFR, Part 228, Subpart A. Those regulations provide, in relevant part, as follows.

16 An "operator" of a mining operation on National Forest System land, such as the  
17 Esmeralda Project, is an entity which is "conducting or proposing to conduct [designated]  
18 operations." See 36 CFR § 228.3(b)& (c). Currently, Antler Peak Gold, Inc. is the only authorized  
19 "operator" for the Esmeralda Project.

20 An "operator" is required to submit a proposed "Plan of Operations" to the appropriate  
21 Forest Service official prior to the operations being conducted. See 36 CFR § 228.4(a). The  
22 required content of the Plan of Operations is set forth in 36 CFR § 228.4(c) - (e), including  
23 circumstances which require the submission of a "supplemental plan" or a "modification of the  
24 plan." The Forest Service examines the proposed Plan of Operations to, among other things,  
25 "determine whether an environmental statement is required." See 36 CFR § 228.4(f). The Forest  
26 Service will advise the "operator" whether the proposed Plan of Operations is approved or what

1 additional information is needed to process the proposed plan to approval, including any additional  
2 environmental review which the Forest Service deems necessary. See 36 CFR § 228.5.

3 Throughout the time period in which the “operator” is conducting operations on National  
4 Forest System land, the “operator” has specified obligations to operate the project in compliance  
5 with the Plan of Operations (36 CFR § 228.7), to minimize adverse environmental impacts on  
6 National Forest surface resources (36 CFR § 228.8), and to maintain all facilities in a safe, neat  
7 and workmanlike manner (36 CFR § 228.9).

8 An “operator” is also required to furnish a reclamation bond (or cash equivalent) prior to  
9 approval of a Plan of Operations (36 CFR § 228.13).

10 There is no provision for the “transfer” of a Plan of Operations, and the corresponding  
11 obligations of an “operator,” from the “operator” to some other entity. In order for another entity  
12 (such as the proposed purchaser of Antler Gold’s assets) to be recognized as an “operator” of the  
13 Esmeralda Project, that entity (which will necessarily be one who is “proposing to conduct  
14 operations” as provided in § 228.3(b)&(c)) will need to comply with the applicable regulations for  
15 approval of a Plan of Operations. The purchaser of Antler Gold’s assets may be recognized as the  
16 authorized “operator” of the Esmeralda Project by proceeding as follows:

17 1) Submit a formal request to Forest Service for a transfer of the Plan of Operations to the  
18 proposed successor “operator.”

19 2) Forest Service Certified Minerals Administrator (CMA) will review the current Plan of  
20 Operations and bonding instruments to determine plan compliance and adequacy of the bond  
21 calculation.

22 3) The proposed new “operator” formally accepts all conditions in the existing Plan of  
23 Operations and any proposed modifications thereto, together with the bonding requirements  
24 associated with the existing/revised plan.

25 4) The proposed new “operator,” through its authorized officer, submits a replacement  
26

1 bond (or cash deposit equivalent) and Form 6500-7 to Forest Service for processing.<sup>1</sup>

2 5) Once the successor entity qualifies as an “operator” subject to the obligations imposed  
3 on an “operator” and the bonding instruments have been processed and accepted, the Antler Peak  
4 cash bond may be released in accordance with instructions from the Court.

5 The proposed sale of assets appears to contemplate the automatic transfer of Antler Peak’s  
6 Plan of Operations to the purchaser, contrary to Forest Service regulations. The proposed sale also  
7 excludes transfer of the cash collateral for reclamation obligations and also appears to exclude  
8 transfer of the reclamation liabilities “to the extent relating” to the cash collateral. As discussed  
9 above, specified obligations are imposed on an “operator” of a mining operation being conducted  
10 on National Forest System land and those obligations - financial and operational - must be  
11 acknowledged by the “operator” through a formal submission of a proposed Plan of Operations  
12 (which is then processed for approval) or a formal submission of a request to transfer an existing  
13 Plan of Operations (which is then processed for approval).

14 Based on the foregoing, it is respectfully requested that an order approving the sale of  
15 assets include an express provision that such sale does not affect the duty of the purchaser to  
16 initiate and complete Forest Service requirements for transfer of mining operations, including  
17 compliance with reclamation-related obligations.

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19 Respectfully submitted,

20 DANIEL G. BOGDEN  
21 United States Attorney

22 /s/ Greg Addington  
23 GREG ADDINGTON  
24 Assistant United States Attorney

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26 <sup>1</sup> It should be noted that cash bonds are processed more quickly than other  
bonding instruments.

CERTIFICATE OF SERVICE

It is hereby certified that service of the foregoing JOINDER OF U.S. FOREST SERVICE TO NDEP's OBJECTIONS TO PROPOSED SALE OF ASSETS (#400) and SUPPLEMENTAL OBJECTION AND STATEMENT OF U.S. FOREST SERVICE REGARDING MOTION TO APPROVE SALE OF ASSETS (#16) MEMORANDUM OF THE U.S. DEPARTMENT OF AGRICULTURE was made through the Court's electronic filing and notice system (CM/ECF) to all ECF registered parties in this matter.

Additionally, service of the foregoing document was served by first-class mail and/or electronic transmittal as indicated below on April 25, 2013, addressed to the following addressees:

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